Guidelines under Forest (Conservation) Act, 1980 for repair and up-gradation of Roads constructed prior to 1980.

Government of Maharashtra

Revenue and Forest Department

Government Circular No. FLD-2019/C.R.76/F-10

Mantralaya, Mumbai - 400 032.

Date: 03.05.2019

<u>Read</u> :-

1) Government of Maharashtra letter No.FLD-3102/C.R.9/F-10, dt.24.06.2003
2) MoEF,Government of India letter No.11-48/2002-FC,dt.14.09.2004
3) MoEF,Government of India letter No.11-48/2002-FC,dt.30.04.2005
4) MoEF,Government of India letter No.11-48/2002-FC *(pt.),* dt.04.07.2014
5) Additional Principal Chief Conservator of Forests & Nodal Officer Letter No. Desk-17/NC/1/ID/G.Com/2285/18-19, dt.02.03.2019.
6) MoEF&CC, Government of India Letter No. F.5-2/2017-FC, dt.28.03.2019

<u>Circular</u> :-

The Forest (Conservation) Act, 1980 came into force from 25.10.1980. Thereafter, for carrying out any non-forestry activity in the forest land, it became mandatory for the User Agency to obtain the prior approval of the Central Government under the said Act. However, practical difficulties were encountered in case of repair and up-gradation of roads, which were existing prior to promulgation of the said Act.

2. The Government of Maharashtra after appreciating the ground situations, issued certain guidelines as per references dated 31.08.1991, 4.9.2000, 15.02.2001 and 12.05.2003 referred in its letter under reference 1. After taking stock of the ground situation and with an objective to issue self-contained guidelines for removal of doubts, it issued detailed guidelines vide reference no.1 in supersession of all the guidelines issued prior to that.

3. However, thereafter the Central Government vide reference no.2 issued a clarification in respect of the subject matter with a clear mention that the road constructed on forest land prior to 25.10.1980 may be repaired and maintained and black topping may be done with the prior permission of the State Forest Department. The said letter made it incumbent upon the State Government to ensure fulfilment of certain conditions mentioned therein.

4. Subsequently, the Central Government vide reference no.3 issued further clarification for up-gradation of *'kaccha'* road prior to 1980 in forest areas to *'pucca'* roads. This was followed by reference no.4 to clarify the issue of requirement of environmental clearance in accordance with the notifications issue under the Environment (Protection) Act, 1986.

5. Although, the common objective of the guidelines issued by the State Government vide reference 1 and those issued by the Central Government under reference 2, 3 and 4 is aimed at ensuring repair and maintenance of roads constructed on forest land prior to 1980 for public purpose. However, the distinction between the two guidelines is that while the

former has authorised Deputy Conservator of Forests and Chief Conservator of Forests/ Conservator of Forests to take appropriate decisions, the latter makes it mandatory that the prior permission of the State Forest Department shall be sought. To that extent, the guidelines issued by the Central Government override the guidelines issued by the State Government.

6. Meanwhile, MoEF&CC, GoI vide reference 6 has issued a handbook of guidelines for effective and transparent implementation of the provisions of Forest (Conservation) Act, 1980. The said provisions are applicable from 8th March, 2019 onwards. Para 11.6 of Chapter 11 of the said guidelines is about repairs and maintenance of roads constructed in Forest Lands.

7. Under such circumstances**, State Government hereby declares that the guidelines issued by the State Government under reference 1 above, stand nullified and henceforth all the concerned authorities shall rely only on the guidelines issued at reference No.6 and any other relevant guidelines issued by the Central Government in the subject matter. Hence, the proposals for up-gradation of existing roads existing before 1980 in forest areas shall be submitted to State Government through concerned DCF, CCF (T) and APCCF & Nodal Officer, Maharashtra State, Nagpur.**

This Government Circular is available on website www.maharashtra.gov.in with Reference no. 201905031740175719. This order has been signed digitally.

By order and in the name of the Governor of Maharashtra,

VIRENDRA RAMBAHAL TIWARI

Digitally signed by VIRENDRA RAMBAHAL TIWARI
DN: c=IN, st=Maharashtra, 2.5.4.20=a95e1a9759002ee190cd79464daaba7dc840ec375cd62a646a64986631086810, postalCode=400032, street=R AND F D,4TH FLOOR,MANTRALAYA,MUMBAI, ou=FOREST DEPARTMENT, o=GOVERNMENT OF MAHARASHTRA, cn=VIRENDRA RAMBAHAL TIWARI
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(Virendra Tiwari)
Additional Principal Chief Conservator of Forests (Mantralaya)

Copy :-

1. Principal Secretary, Rural Development Department, Mantralaya, Mumbai.
2. Principal Secretary, Public Works Department, Mantralaya, Mumbai.
3. Principal Chief Conservator of Forests (HoFF), Maharashtra State, Nagpur.
4. Principal Chief Conservator of Forests (Wildlife), Maharashtra State, Nagpur.
5. Additional Principal Chief Conservator of Forests & Nodal Officer, Nagpur.
6. Additional Principal Chief Conservator of Forests & C.E.O. (Maha-CAMPA), Maharashtra State, Nagpur.
7. All Chief Conservator of Forests (Territorial)
8. All Conservator of Forests / Deputy Conservator of Forests / Divisional Forest Officers.
9. Select File (F-10).